

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2008-051715

06/25/2012

HONORABLE MICHAEL D. GORDON

CLERK OF THE COURT
M. MINKOW
Deputy

IN RE THE MATTER OF
LONI JEAN LUBIN

DAVID LEE GOLDFARB

AND

ROBERT GLENN HOLTHAUS

RONALD V THOMAS

DR MARGARET MARSHALL
5150 N 16TH ST STE A112
PHOENIX AZ 85016

ORDER APPOINTING AN INTERVENTIONIST

Upon order of the Court, DR. MARGARET MARSHALL, 5150 N 16TH ST, STE A112, PHOENIX, AZ 85016 602-264-5678, is appointed as an Interventionist. The individual is appointed pursuant to Arizona Revised Statutes Section 25-405 - Interviews by court: professional assistance.

Scope:

Court Interventionists are intended to 1) gather data and inform the Court regarding family dynamics and functioning and 2) create desired change in individuals and families. The different sub-roles within the Therapeutic Intervention category generally define who is to be involved in the process.

In this role, the Interventionist's process and goals may include the following:

1. Provide rehabilitation of a relationship between identified family members;

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2. Identify, establish, and communicate clear boundaries, behavioral expectations, rules, and rules for exchanges of the children in order to enhance safety and health in the family;
3. Make referrals for therapy as appropriate for containment of psychological or behavioral issues regarding the parents or children as needed;
4. Report child maltreatment pursuant to applicable child abuse reporting statutes;
5. Facilitate the development of, or implement a court-ordered, child-focused, schedule for access;
6. Facilitate conflict resolution;
7. Provide education and support to obviate re-litigation.

This Court Intervention Appointment is specifically intended for the purpose of:

Reunification: The Interventionist manages the family during the process of reunification. The interventionist works to support the relationship between family members in order to more closely approximate the parenting time plan as written in the court order. The intervention is aimed at supporting a renewed relationship, usually between a parent or caretaker and a child. The intervention is typically designed for cases of polarization or estrangement, yet is useful in a broad array of family law circumstances. Intervention is generally ordered to reunify parent with children or siblings with one another.

The Interventionist's Report to the Court:

In order to inform and assist the Court, the Therapeutic Interventionist shall provide brief 90-day intervention summaries to the court. Copies are to be provided to the parties or counsel. Reports of the Interventionist may be received in evidence without the necessity of any foundation and without the objection to hearsay statements contained therein or any other objection. It is agreed that reports shall be delivered to the Court and counsel, unless the Interventionist asserts extraordinary extenuating circumstances, including but not limited to imminent life threat or the potential for serious harm to a person related to the case. In that instance, the Court shall make a ruling regarding dissemination.

The Interventionist has the authority to make requests regarding implementation, clarification, amendment and enforcement of orders of the court. Such requests are made in writing and copied to counsel or the parties.

Term:

The Interventionist is appointed for a term of one year subject to (1) reappointment at the expiration thereof upon the Court's own motion, the request of the Therapeutic Interventionist or motion of either party; or (2) earlier removal by court order based upon motion showing good

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cause, stipulation of the parties, or resignation by the Therapeutic Interventionist. Sixty (60) days prior to the expiration of this appointment, the Therapeutic Interventionist shall submit to the Court and parties or their counsel, if represented, a summary of the history of the services rendered, compliance by the parties, recommendations made, and any recommendations for future involvement of the Therapeutic Interventionist.

1. THE AUTHORITY OF THE APPOINTEE:

The Appointee shall have the following rights and authority with regard to the minor children and family members:

- The Appointee shall serve as expert for the court in order to provide data and opinions relevant to the care of, custody of and access to the minor children in this case pursuant to applicable Arizona Statutes and case law.
- The Appointee shall have the authority to collect data and form opinions relevant to statutory issues.
- The Appointee shall conduct any and all assessment needed in order to provide an ultimate opinion as to the specific questions identified above.
- Collection and integration of information as well as referral for adjunct services shall be at the sole discretion of the Appointee.
- The Appointee may request that an individual or multiple family members participate in adjunct services, to be provided by third parties, including but not limited to physical or psychological examinations, assessment, psychotherapy, co-parenting work, or alcohol and drug monitoring/testing.

The Appointee may communicate ex-parte with the Court regarding procedural issues. The Court may order additional rules applicable to the Appointee from time to time. The Appointee may seek guidance from the Court in order to achieve clarity with regard to the procedural aspects of the intervention should disputes arise.

The Appointee is permitted to consult with or exchange information with professionals and other collateral informants he or she deems appropriate in this role.

2. RESPONSIBILITIES OF THE PARTIES AND LEGAL REPRESENTATIVES:

The Parties shall keep the Appointee informed of concerns; meet the behavioral expectations outlined in the court order; meet the behavioral expectations outlined by the Appointee during the course of the Appointee's term; seek to promote a healthy relationship between the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.

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The parties will not engage additional behavioral health professionals (including but not limited to therapists, psychologists, psychiatrists, and social workers) to provide services during the course of the process without the consent or authorization of the Appointee, unless otherwise authorized by court order.

Except as directed by the Appointee or authorized by the Court, the parties shall not disseminate or publish any reports, opinions, testimony or other written, transcribed or recorded communications from the Appointee to any third parties except behavioral health providers appointed by the Court to provide services (e.g. custody evaluators, parenting coordinators, therapeutic interventionists). Under no circumstances shall such information be shared with the parties' child(ren).

The parties shall keep the Appointee advised of their and the child(ren)'s addresses, telephone numbers for home, work and school, mailing address if different than the living address, as well as any other pertinent information. This information shall be immediately communicated in writing to the Appointee.

The parties are to comply fully with this court order and present as requested on time for the evaluation process. The parties shall comply with all requests made by the Appointee.

Should the Appointee determine that one of the parties is using his/her services unnecessarily and is thereby causing greater expense for the other party as a result thereof, the Appointee may recommend to the Court a different allocation for payment of fees.

Should the Appointee find any party is acting in bad faith, and/or not complying with the Court's orders, the Appointee may recommend that the party acting in bad faith pay or reimburse the other party's costs of services provided by the Appointee necessitated by the party acting in bad faith, and the Appointee may recommend additional sanctions which may include modifications of access and/or contempt proceedings.

Parties and legal representatives will not videotape or audiotape any part of the Appointee's process, including recording of the Appointee, the child or the parties without the written consent of the Appointee. If recordings are made in violation of this order, 1) the Court will consider sanctions and 2) all transcripts, tape recordings or videotapes of the proceedings shall be immediately submitted to the Court and the Appointee.

3. INFORMATION AND RECORDS:

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All data provided by the parties directly to the Appointee shall be copied to the other party, or to the legal representative of that party.

The Appointee shall receive the cooperation of all parties and counsel involved to help ensure that the report is submitted by the due date identified by the Court.

The Appointee may seek information and records that are the result of a privileged or confidential relationship. This order shall act as a release by the parties of all information requested by the Appointee and shall further obligate the parties for any costs associated with the production of those records to the Appointee. The Appointee shall request only the records and information that are necessary and pertinent to further the purpose of the role envisioned by this order. The possessor of the records and information will release relevant information in an effort to retain the integrity of the privileged or confidential relationship, yet cooperate with the needs of the Appointee for the role envisioned by this order. Also at the request of the Appointee, each party shall execute any and all authorizations, releases or consents necessary so as to authorize the Appointee's access to the information contemplated herein above. Any costs shall be paid promptly and by the party/parties as outlined in this order inline with ARS §12-2295 and ARS §12-351. Parties, counsel and other professionals shall provide all documents requested by the Appointee within ten days of receipt of this order.

If the recipient does not comply with this order, the Appointee can request sanctions against the recipient to the extent permitted by Arizona law including civil contempt. Consistent with civil contempt, the Court may impose sanctions to obtain compliance with the order, including incarceration, seizure of property, attorney's fees, costs, compensatory or coercive fines. Additionally, action may be taken with a professional's licensing board regarding non-compliance with a Court order.

IT IS FURTHER ORDERED that the Appointee shall have authority to involve the child(ren), parents, siblings, stepparents and any other person who may significantly affect the child(ren)'s best interest. The Appointee is permitted and may seek to:

1. Meet and interview any of the above participants.
2. Visit the home(s) of the parents to determine if the environments are appropriate for the child;
3. Investigate and review both parents', their spouses' and significant others' backgrounds with regard to criminal arrests and convictions;
4. Determine if drug testing by either or both parents is needed. The parties shall immediately comply with any requests by the Appointee for documentation or further evaluation such as random drug testing through TASC, substance use assessment by a licensed medical doctor, or any other form of assessment;

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5. Review the child's school/daycare records, Parenting Skills records, psychological evaluations, and counseling records;
6. Review law enforcement, court, or Child Protective Services reports concerning the child.

The Appointee shall also have access to:

1. All therapists of the children and parties;
2. All school and medical records of the children and parties;
3. Any and all psychological testing or evaluations performed on the children or the parties;
4. Arizona Department of Transportation records;
5. Any and all teachers/child care providers for the children.
6. Any and all additional records the Appointee deems necessary and relevant to the evaluation.
7. Any and all CPS records which shall not be redacted unless otherwise ordered by the Court.

The Court has balanced interests consistent with Title IX obligations and determined release of un-redacted CPS records to the Appointee is appropriate. As the Appointee is serving with authority from this Court, this Order should serve as an order to CPS to provide any and all un-redacted records related to this family from prior to the date of this appointment through the term of this appointment upon the request of the Appointee. If there is an active CPS investigation at any time during the course of this evaluation, CPS is ordered to produce all records to the Appointee until the Appointee submits a final report. This Order is made pursuant to Ariz. Rev. Stat. Ann. § 8-807(D) and (F)(4) as the information is necessary to promote the safety and well-being of the child or children and is reasonably necessary to promote the safety, permanency and well-being of a child

As the Appointee is serving with authority from this Court, this Order should serve as an order to the Arizona Department of Economic Security to provide any and all un-redacted records related to the above named parties from all dates prior to the date of this appointment through the term of this appointment upon the request of the Appointee.

4. IMMUNITY:

The Appointee shall act in the capacity of a special master in his/her capacity pursuant to this Order, and as such, the Appointee is cloaked with applicable judicial immunity consistent with Arizona case law applicable to quasi-judicial officers of the Court as to all actions undertaken pursuant to the Court appointment and this Order.

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5. APPEARANCES:

Each party reserves the right to call the Appointee as a witness. If only one party believes that in addition to his/her written report the Appointee's testimony is necessary, that party shall be responsible for 100% of the costs incurred in connection with the Appointee testifying during the hearing.

The Appointee may appear and may be available to testify at any court hearing upon reasonable notice to the Appointee, the Court, and the opposing party, regarding any issue addressed by the Appointee.

The parties are responsible for notifying the Appointee of any changes in the originally scheduled hearing date. If, due to extenuating circumstances, the Appointee is unable to provide a written report prior to the scheduled hearing, the Appointee will notify the parties and the court, specifying when the report shall be completed.

If transcripts, tape recordings or videotapes have been made of any portions of the Appointee's proceedings, they shall be submitted to the Court. There will be no videotaping or audio taping of the Appointee, the child or the parties without the written consent of the Appointee.

6. FEES:

The Appointee's fees and costs shall be paid 50% by Father, and 50% by Mother subject to other and further orders of the Court. Costs shall be paid as directed by Appointee and may be required to be paid prior to the first appointment. In the event any person (including a child) fails to appear at the time of an appointment, the person responsible for the missed appointment shall be obligated to pay any cost associated with the missed appointment.

If either party requests that the Appointee testify, the party will be responsible for fees associated with that testimony as identified within the Appointee's consent form.

7. CONFIDENTIALITY:

There is no confidentiality relating to the parties' communications with/to the Appointee or concerning the Appointee's activities, treatment, referrals, data collection or recommendations. This court order constitutes a complete waiver of doctor-patient privilege, as the Appointee is appointed as the court's expert. Additional rules applicable to the Appointee may be ordered by the Court from time to time.

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8. THE APPOINTEE'S REPORT:

Should the Appointee submit a report, the report of the Appointee may be received in evidence without the necessity of any foundation and without the objection to hearsay statements contained therein or any other objection. It is agreed that the report shall be provided to the Court, the parties and counsel, unless otherwise ordered by the Court. Upon delivery of the report, the Appointee shall be discharged of his evaluative duties. Any further data collection shall be executed only via court order.

9. PROFESSIONAL RESPONSIBILITIES:

The Appointee shall serve pursuant to applicable case law, rules of court, local rules, domestic relations rules, rules of civil procedure, uniform rules, and with behavior consistent with the Appointee's applicable ethical standards.

Any alleged impropriety or unethical conduct by the Appointee shall be brought to the attention of the Court in writing, prior to the submission of such complaints to any administrative bodies. Professional conduct within the scope of this court order shall not be deemed unprofessional conduct by the court or any administrative body.

If any party or attorney on behalf of a party files a licensing complaint against the appointed professional during the pendency of this case, that party shall notify the Court within 3 business days that the licensing complaint has been filed. If the appointed professional is notified by his/her licensing board that a complaint has been filed against the appointed professional in this case, the appointed professional may notify the Court that a complaint has been filed against the appointed professional if he or she does not believe the party or litigant informed the Court as described above.

As the Court is concerned about the Appointee's ability to effectively carry out appointment duties, the Court may review any licensing complaint to determine whether the complaint inappropriately hindered the Appointee's role and the Court's process. If the Court determines the complainant has acted in a way to hinder the legal process, the Court may choose to sanction the complainant. Failure to advise the Court as required above may result in contempt proceedings being initiated against the complaining party and that party's attorney.

Nothing in this court order shall be construed to relieve the Appointee of their professional responsibilities. The Appointee and parties will engage each in a professional manner at all times. The Appointee does not have to report to the parties. The Appointee shall

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report to the Court, any physical threats and may report any threats or intimidation by the parties towards the Appointee.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/s/ Michael D. Gordon

MICHAEL D. GORDON
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.